

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**SHAMAR GREEN,**

**Plaintiff,**

**v.**

**LT. HORSEY, et al.,**

**Defendants.**

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**Civil Action  
No. 19-2190**

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, upon consideration of the Plaintiff's Motion to Compel, and any response thereto, it is **HEREBY ORDERED** that the Motion is **DENIED**.

BY THE COURT:

  
  

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SHAMAR GREEN,	:	
	:	
Plaintiff,	:	
	:	Civil Action
v.	:	No. 19-2190
	:	
LT. HORSEY, et al.,	:	
Defendants.	:	

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**DEFENDANT’S RESPONSE IN OPPOSITION  
TO PLAINTIFF’S MOTION TO COMPEL**

Defendant Correctional Lieutenant Horsey, by and through the undersigned counsel, hereby files this Response in Opposition to Plaintiff’s Motion to Compel. Defendant respectfully requests that this Honorable Court deny Plaintiff’s Motion because it seeks relief specifically proscribed by Rule 26 of the Federal Rules of Civil Procedure.

**I. BACKGROUND**

On November 9, 2020, *pro se* Plaintiff filed a motion to compel against Defendant Lt. Horsey (ECF Doc. No. 46). In his motion, Plaintiff moves this Honorable Court to issue an order compelling Lt. Horsey to “answer fully” thirteen interrogatory questions. *See id.* at 1-3. Plaintiff also attached discovery requests dated August 29, 2020, which includes thirteen interrogatory questions and seven requests for production of documents. *See id.* at 5-13. Defendant has already provided responses to Plaintiff’s request, and Plaintiff has failed to state how Defendant’s responses were incomplete or inadequate. *See generally id.*

Plaintiff first sent discovery requests in a letter dated March 25, 2020 with ten requests for production of documents. *See* Plt’s First Set of RFPDs, as Exhibit A. Counsel for Defendant sent a letter on April 22, 2020 responding to Plaintiff’s requests, indicating that the COVID-19 related

stay-at-home orders and personal circumstances prevented counsel from sending Plaintiff the requested materials. *See* April 22, 2020 Letter as Exhibit B. Counsel subsequently learned the letter was returned because Plaintiff was transferred to a different state correctional institution. After learning his new institution, counsel then mailed to Plaintiff on July 27, 2020 an updated response to discovery requests dated July 23, 2020 and bates stamped documents Green0001 – Green0676.<sup>1</sup> *See* July 27, 2020 Letter as Exhibit C; Defendant's Response to RFPDs as Exhibit D.

Plaintiff sent a second request for documents and first set of interrogatories directed to Lt. Horsey dated August 29, 2020. *See* ECF Doc. No. 46 at 5-13. Counsel mailed Defendant's responses on October 15, 2020, including bates stamped documents Green0677 – Green0707.<sup>2</sup> *See* Defendant's Responses to Interrogatories and RFPDs, as Exhibit E.

At the settlement conference on November 2, 2020, Plaintiff indicated that he had not received Defendant's responses to interrogatories. As such, counsel mailed a second copy Defendant's interrogatory responses on November 4, 2020. After seeing that Plaintiff filed this present motion to compel on November 9, 2020, Defendant mailed third copy of Lt. Horsey's responses to Plaintiff's interrogatories, documents Green0677 – Green0707, as well as supplemental documents bates stamped Green0708 – Green0718.<sup>3</sup> *See* November 10, 2020 Letter, as Exhibit F.

## II. ARGUMENT

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<sup>1</sup> Bates stamped documents Green0001 – Green0676 include Plaintiff's prison records, the full internal investigation report of his stabbing, and Plaintiff's medical records.

<sup>2</sup> Bates stamped documents Green0677 – Green 0707 include roster sheets from various days that Plaintiff inquired about.

<sup>3</sup> Bates stamped documents Green0708 – Green0718 contain the prison policy on grievances.

Plaintiff's Motion to Compel should be denied because it seeks relief specifically proscribed by Rule 26 of the Federal Rules of Civil Procedure. Rule 26(b)(1) states the scope of discovery is: "nonprivileged matter that is *relevant* to any party's claim or defense and *proportional* to the needs of the case, ... the parties' relative *access* to relevant information, the parties' *resources*, ... and whether the *burden or expense* of the proposed discovery *outweighs* its likely *benefit*." Fed. R. Civ. P. 26(b)(1) (emphasis added).

Defendant has already provided responses to Plaintiff's request, and Plaintiff has failed to state how Defendant's responses were incomplete or inadequate. Plaintiff also failed to contact undersigned counsel to resolve the issue amongst ourselves, in accordance with Local Rule 26.1(f) ("no motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute.").

### III. CONCLUSION

Because Plaintiff has filed a Motion to Compel which is unsupported by the Federal Rules of Civil Procedure and the Local Rules, Defendant respectfully requests that the Court deny Plaintiff's Motion.

Respectfully submitted,

Date: November 13, 2020

/s/ Katie Cooper Davis  
Katie Cooper Davis  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the date below, the Defendants' Response in Opposition to Plaintiff's Motion to Compel was filed via the Court's electronic filing system and is available for downloading. A copy will be sent to the following, via first-class mail:

Smart Communications/PA DOC  
Shamar Green/MP8706  
SCI Dallas  
P.O. Box 33028  
St. Petersburg, FL 33733

Date: November 13, 2020

/s/ Katie Cooper Davis

Katie Cooper Davis  
Assistant City Solicitor